

FILED  
U.S. DISTRICT COURT  
MASSACHUSETTSUNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTSSprague Energy Corp.,  
Plaintiff

v.

Canada Steamship Lines, Inc., In Personam, and  
M/V ATLANTIC SUPERIOR, In Rem,  
Defendants

) RECEIPT # 16696  
 ) AMOUNT \$ 200  
 ) SUMMONS ISSUED 9  
 ) LOCAL RULE 4.1  
 ) WAIVER FORM  
 ) MCF ISSUED  
 ) BY DPTY. CLK.  
 ) DATE 9/10/05

05 - 11825 RWZ

VERIFIED ADMIRALTY COMPLAINT

1. This is an action for maritime tort in the operation of a vessel, a case as  
hereinafter more fully appears, and is an admiralty or maritime claim within the meaning of Rule  
9(h), Federal Rules of Civil Procedure.

2. Plaintiff Sprague Energy Corp. is a Delaware corporation, with a place of  
business in Quincy, MA.

3. Defendant Canada Steamship Lines, Inc. is, on information and belief, a Canadian  
corporation which at all times relevant to this action was the owner and operator of the  
Defendant M/V ATLANTIC SUPERIOR, was and is doing business in Massachusetts, and has a  
place of business in Beverly, MA.

4. On information and belief, the M/V ATLANTIC SUPERIOR is a steel-hulled  
cargo vessel and is now or during the pendency of this action will be within this District.

5. On or about September 1, 2004, the Plaintiff owned, operated and maintained a  
maritime facility and pier in Providence, RI. The Defendant M/V ATLANTIC SUPERIOR was  
docked at the Plaintiff's pier, secured to the pier by the ship's lines, and was unloading a cargo of  
salt. At this time the vessel and its master and crew negligently and wrongfully caused damage

to the pier.

6. The Plaintiff alleges that the cause of the damage to its pier was not due to any fault of the Plaintiff, or to any condition of the pier, but rather was solely due to the fault and negligence of the Defendant M/V ATLANTIC SUPERIOR, its master and crew, and the persons in charge of said vessel, in that:

- (a) The master and crew negligently and wrongfully failed to monitor the ship's lines during the cargo unloading as the ship rose in the water and the tension increased on the ship's lines, and the master and crew negligently and wrongfully failed to release the tension on the ship's lines causing damage to the Plaintiff's pier;
- (b) The ship's gear, equipment and appurtenances, including but not limited to the winches to which the ship's lines were attached, were in a defective and unseaworthy condition, causing damage to the Plaintiff's pier; and
- (c) In such other particulars as discovery and trial of this matter shall reveal.

7. As a result of the foregoing, the Plaintiff has been caused to suffer substantial property damage including but not limited to the cost of a damage survey, and the cost of the reasonable and necessary repairs to the Plaintiff's pier, such damages being in the amount of \$22,370.00.

WHERFORE, the Plaintiff prays:

1. That process in due form of law, according to the practices of this Court in causes of admiralty and maritime jurisprudence, may issue against the said Defendant M/V ATLANTIC SUPERIOR, her engines, tackle, apparel, etc., in rem, and that all persons having or claiming to have any interest therein be cited to appear and answer, under oath, all and singular the matters

aforesaid; that the Plaintiff have judgment against the said M/V ATLANTIC SUPERIOR, in rem, for its damages aforesaid, and that the said M/V ATLANTIC SUPERIOR be condemned and sold to satisfy the Plaintiff's judgment;

2. That process in due form of law may issue against Defendant Canada Steamship Lines, Inc., in personam, citing it to appear and answer, under oath, all and singular, the matters aforesaid;

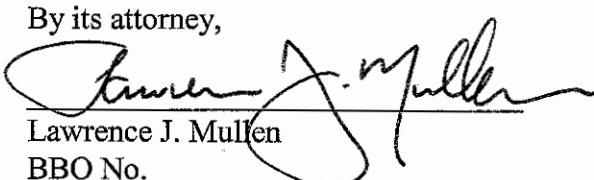
3. That the Court order, adjudge and decree that the Plaintiff have judgment against Defendant Canada Steamship Lines, Inc. for the claim and damages asserted by the Plaintiff herein, together with prejudgment interest, reasonable attorneys fees and costs; and

4. That the Plaintiff have such other relief as may be proper in the circumstances and that this Court may be competent to grant.

SPRAGUE ENERGY CORP.

By its attorney,

Date: September 6, 2005



Lawrence J. Mullen  
BBO No.

Wadland & Ackerman  
2 Dundee Park, Suite 304  
Andover, MA 01810-3726  
978-474-8880

**VERIFICATION**

STATE OF NEW HAMPSHIRE  
COUNTY OF Rockingham, SS

August 29, 2005

David S. Hershey, first being duly sworn, deposes and says:

I am employed as the Risk Manager for Sprague Energy Corp., the Plaintiff in this case, and in that capacity I have read the foregoing Verified Admiralty Complaint, am familiar with the facts alleged in it, and the matters contained therein are true to the best of my knowledge, information and belief, and so far as upon information and belief, I believe them to be true. I am authorized by the Board of Directors of Sprague Energy Corp. to execute this verification.

\_\_\_\_\_  
David S. Hershey

Subscribed and sworn to under the pains and penalties of perjury before me this 29 day of August 2005.

Nancy E. Bergeron  
Notary Public  
My Commission Expires:

NANCY BERGERON, Notary Public  
My Commission Expires December 6, 2005

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTSFILED  
U.S. OFFICE  
SEP 7 2005  
U.S. DISTRICT COURT  
DISTRICT OF MASS.1. Title of case (name of first party on each side only) Sprague Energy Corp. v. Canada Steamship Lines, Inc.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

Not applicable

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES  NO 

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES  NO 

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES  NO 

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES  NO 7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES  NO A. If yes, in which division do all of the non-governmental parties reside?Eastern Division  Central Division  Western Division 

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division  Central Division  Western Division 

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES  NO 

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Lawrence J. Mullen, Wadland & AckermanADDRESS 2 Dundee Park, Suite 304, Andover, MA 01810-3726TELEPHONE NO. 978-474-8880

JS 44  
(Rev. 3/99)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Sprague Energy Corp.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Norfolk  
(EXCEPT IN U.S. PLAINTIFF CASES)(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Lawrence J. Mullen, Wadland & Ackerman  
2 Dundee Park, Suite 304  
Andover, MA 01810-3726  
978-474-8880**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)   |

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)  
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	PTF	DEF
<input type="checkbox"/> 1 Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
<input type="checkbox"/> 2 Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5

Citizen or Subject of a Foreign Country  3  3 Foreign Nation  6  6

**IV. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 630 Liquor Laws		<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 640 R.R. & Truck		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 650 Airline Regs.		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health		<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 690 Other		<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 892 Economic Stabilization Act
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>		<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 411 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<b>HABEAS CORPUS:</b>		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- |  |   |  |   |                  |   |   |                               |
|--|---|--|---|------------------|---|---|-------------------------------|
| <input type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | Transferred from | <input type="checkbox"/> 5 another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | Appeal to District Judge from |
|--|---|--|---|------------------|---|---|-------------------------------|

7 Magistrate Judgment

**VI. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.  
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

This is a maritime tort action, and an admiralty and maritime claim within the meaning of F.R.C.P. 9(h). Plaintiff alleges that Defendant's vessel caused damages to plaintiff's pier in Providence, RI through negligence in the operation of the vessel.

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION  UNDER F.R.C.P. 23 **DEMAND \$** 22,370.00 **CHECK YES only if demanded in complaint:**  YES  NO **JURY DEMAND:**  YES  NO

**VIII. RELATED CASE(S)** (See instructions:  
IF ANY) None **JUDGE** \_\_\_\_\_ **DOCKET NUMBER** \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

*Lawrence J. Mullen*

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